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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/733,138

12/08/2000

Rajan Mathew Lukose

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CASCADIA INTELLECTUAL PROPERTY  
500 UNION STREET  
SUITE 1005  
SEATTLE, WA 98101

EXAMINER

FELTEN, DANIEL S

ART UNIT

PAPER NUMBER

3696

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/733,138	<b>Applicant(s)</b> LUKOSE, RAJAN MATHEW	
	<b>Examiner</b> DANIEL S. FELTEN	<b>Art Unit</b> 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11, 12, 14-17, 20, 32 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14-17, 20, 32 and 38-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Receipt of the amendment filed 12/08/2008 is acknowledged. Claims 11-17, 20, 32 and 38-41 are pending. Claims 1, 5, 11, 12, 14-17, 20-22, 24, 25, 34, 36, 38 and 40 are amended. Claims 3, 13, and 23 have been cancelled. Claims 11, 12, 13-17, 20, 32 and 38-41 are remain pending in the application and are presented to be examined upon their merits.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 11, 12, 13-17, 20, 32 and 38-41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 11-17, 20 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. the applicant states "wherein the contingency payment module is further configured to *adjust an amount* for the at least part of the payment..." to adjust the amount is indefinite because it is uncertain how the adjustment is made or what parts of the payment that the adjustment is applied to. What is the difference between a *predicted* probability and a *true* probability when both probabilities are based upon a likelihood of something to happen and thus both suggesting a predictive nature.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 12, 14-17, 20, 32 and 38-41 rejected under 35 U.S.C. 103(a) as being unpatentable over EISNER et al (WO 01/02985) in view of IExchange.com and “iExchange.com Celebrates One-Year Anniversary,” Business Wire. New York: Nov 20, 2000. page 1 and in view of Walker (US 5,794,207).

**Re claim 11:** EISNER and the iExchange article discloses a system for selling information to a buying system (see EISNER Abstract and iExchange article) comprising:

an interface (100-computer with 110-Keyboard) operatively coupled to a buying system via a communication link (121)(fig. 1)(see EISNER, page 17, lines 11+);

a memory storage device (115-main memory; 112-mass storage) to store information and computer-executable program code in electronic form;

a processor (113- processor or 126—server, or 123 host) configured to execute the computer-executable program code on computer-executable program modules, comprising:

--a relation module configured to relate the information to an event that has not yet occurred (202) (see EISNER, fig. 2, “information entry” or “prediction” page 21, lines 5-9; also “Entry of Information,” page 11, lines 20+);

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--an offer module configured to offer the information for online sale (see EISNER, fig. 2, "price tag" page 21, lines 1—16);

a receiving module configured to receive an offer from the buying system for the information that includes a contingency that specifies an uncertainty of the event occurring (see fig. 2, ranking page 22, line 1+) ;

--a specification module configured to specify a condition for the information that will resolve the uncertainty and thereby satisfy the contingency (see fig. 2, "additional information," page 21, lines 10-15; also page 24, lines 3-19);

--a condition module configured to provide the information and the condition, wherein acceptance of the condition forms a contract (see criteria or "metrics," page 22, lines 5-16);

a trigger module configured to trigger at least part of a payment from the buying system upon satisfaction of the condition (see EISNER, page 25, line 11 to page 26, line 13; page 35, line 20 to page 36, line 21); and

--a contingent payment module configured to receive the payment upon the buying system having determined that the satisfaction of the condition has resolved the uncertainty and thereby satisfied the contingency (see EISNER, page 25, lines 11-27; and page 35, line 25 to page 36, line 21),

wherein the contingency payment module is further configured to adjust an amount for the at least part of the payment based directly on accuracy of a predicted probability against a true probability that the condition to resolve the uncertainty to thereby satisfy the contingency occurs (see . EISNER, page 26 line 20 to page 28, line 3;

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page 29, lines 20+; page 30, line 5 to page 31, line 5; also particularly page 35 to page 36 line 21)

**Re claim 12:** further comprising a base payment processing module configured to receive a base payment as the payment when the information has been provided (see . EISNER, “flat fee,” page 36, line 20-21)

**Re claim 14:** wherein the contingency payment module is further configured to select the predicted probability to resolve the uncertainty to satisfy the condition for the contingency and a function for determining the amount for the payment based on the predicted probability for the condition for the contingency occurring (see page 35, line 20 to page 36, line 21).

**Re claim 15:** wherein the contingency payment module is further configured to maximize the amount of the contingent payment when the predicted probability for the condition occurring is substantially the same as the true probability for the condition occurring (see page 35, line 20 to page 36, line 21).

**Re claim 16:** further comprising a condition setting module configured to set the condition to resolve the uncertainty to thereby satisfy the contingency in the received offer (see EISNER, page 22, lines 20+)

**Re claim 20:** wherein the offer is received and the information is provided electronically (see page 20, lines 17 to page 22, line 16).

**Re claim 32:** wherein the information from the selling system in response to the offer is provided without a payment from the buying system (see page 20, line 17 to page 22, line 16).

**Re claim 38:** (see rationale for claim 11)

**Re claim 39:** (see rationale for claim 12)

**Re claim 40:** (see rationale for claim 15)

**Re claim 41:** wherein the function incorporates risk aversion (see page 35 to page 36 line 21)

**Re claim 17:** EISNER and the iExchange article fails to disclose sending a counteroffer to the buying system based on the offer per se.

WALKER discloses sending a counteroffer (267) to the buying system (see WALKER, column 12, line 54 to column 13, line 35).

It would have been obvious for EISNER to integrate the counteroffer feature of WALKER into the conditional part of EISNER's invention to increase the usage of EISNER's invention by allowing interactive price discovery for the information being sold through negotiation between buyers and sellers. EISNER would recognize that such a feature would provide greater satisfaction between buyers and sellers and thus would have been an obvious expedient being within the ordinary skill of the art.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**LUNDGREN (US 5,608,620)** discloses a method of eliciting unbiased forecasts by relating a forecaster's pay to the forecaster's contribution to a collection to collective forecasts

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DANIEL S. FELTEN** whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten  
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